

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated January 25, 2007 (hereinafter Office Action) have been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

With respect to the §101 rejection of Claim 19, Claim 19 has been amended to characterize that the computer program product is stored on a computer-readable medium such that it is structurally and functionally interrelated to the medium. Consistent with MPEP §2106.01, Applicant submits that Claim 19 is directed to statutory subject matter. Applicant accordingly requests that the rejection be withdrawn.

Regarding the rejection of Claims 1-20 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite, Applicant respectfully traverses. The rejection is based on the assertion that the claims do not include antecedent basis for various terms. However, Applicant notes that the failure to provide explicit antecedent basis for terms does not always render a claim indefinite. MPEP §2173.05(e) states that “If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. *Energizer Holdings Inc. v. Int'l Trade Comm'n*, 435 F.3d 1366, 77 USPQ2d 1625 (Fed. Cir. 2006)(holding that “anode gel” provided by implication the antecedent basis for “zinc anode”); *Ex parte Porter*, 25 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992) (“controlled stream of fluid” provided reasonable antecedent basis for “the controlled fluid”).” As Claims 1, 10, 19 and 20 are directed to the activity of an application view loading function, a skilled artisan would reasonably ascertain that “the loaded application view” is the application view that was loaded via the application view loading function. With respect to Claims 3, 8, and 9, since the claims are directed to a method in an electronic device and displaying a floatable control area, a skilled artisan would reasonably ascertain that the electronic device includes a display. Similarly, with respect to Claims 5 and 14, as the floatable control area is provided, a skilled artisan would recognize that it is provided in a location. Further, a skilled artisan would reasonably ascertain the meaning of the phrase “on the basis of” as it is used in Claims 4, 5, and 14. In contrast to an indefinite claim being a claim that contains words or phrases whose meaning is unclear, those skilled in the art

would be able to ascertain the scope and meaning of the instant claims based on the current claim language; therefore Applicant submits that Claims 1-20 are not indefinite. Applicant accordingly requests that the rejection be withdrawn.

With particular respect to the §112 rejection of Claims 2 and 11, Applicant has amended the claims to remove the article “the” in the instances prior to the terms “status” and “progress”. Accordingly, the rejection is believed to be overcome, and Applicant requests that the rejection be withdrawn.

With respect to the §112 rejection of Claims 4 and 13, Applicant has amended the claims in accordance with the Examiner’s suggestion. Thus, the rejection is believed to be overcome, and Applicant accordingly requests that the rejection be withdrawn.

In an effort to facilitate prosecution and without acquiescing to characterizations of the asserted art, Applicant’s claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant’s claimed subject matter, Applicant has amended independent Claims 1, 10, 19 and 20 to indicate that the floatable control area includes a control block for changing the location of the floatable control area in a display area of the electronic device. As these limitations were present in original Claims 5 and 14, the changes do not introduce new matter. Each of the pending claims is believed to be patentable over the asserted references for the reasons set forth below.

The asserted teachings of U.S. Patent No. 6,037,937 to Beaton *et al.* (hereinafter “Beaton”) and U.S. Patent No. 6,901,558 to Andreas *et al.* (hereinafter “Andreas”) alone, or in combination, do not teach at least that a floatable control area may change locations in a display area. For example, the cited portion of Beaton does not teach that the navigation tool (asserted as corresponding to the claimed floatable control area) changes location in a display area, but rather teaches that the underlying displayed text changes location in the display. In contrast to the assertion at page eight, the navigation tool remains in the center of the display. In addition, Andreas has not been shown to discuss any changing location of a floatable control area. As the asserted references alone, or in combination, do not teach

each of the claimed limitations, the rejection would be improper. Applicant accordingly requests that the rejection be withdrawn.

In addition, a skilled artisan would not be motivated to combine the cited teachings as asserted. In the Office Action, it is proposed that Beaton's navigation tool would be modified into a progress bar as taught by Andreas to provide the benefit of indicating the status of loading operation of a page in a non-obtrusive way. However, Beaton does not discuss any loading of pages such that a progress bar would be necessary. Rather, as Beaton teaches that a user may control the speed of navigation, the document being navigated would already be loaded (column 6, lines 11-24). The asserted motivation for modifying Beaton's navigation tool does not exist in Beaton; therefore, it has not been shown that a skilled artisan would have modified Beaton as asserted.

The examiner must show some objective teaching leading to the asserted combination. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). Since Beaton does not teach that the navigation tool is used during any loading of information, Beaton would have provided insufficient guidance for a skilled artisan having these references before him/her to make the combination suggested. Applicant respectfully asserts that the Examiner's conclusion of obviousness is, instead, based on improper hindsight reasoning using knowledge gleaned only from Applicant's disclosure. It is a requirement that actual evidence of a suggestion, teaching or motivation to combine prior art references be shown and that this evidence be "clear and particular." *In re Dembiczak*, 50 USPQ2d 1614, (Fed. Cir. 1999) (citing *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985)). There is nothing in the references or what is in the ordinary skill in the art that would lead to combining the cited references as asserted – rather, the proffered motivation is made in hindsight. For at least the aforementioned reasons, Applicant respectfully submits that a case of *prima facie* obviousness has not been satisfied for lack of a presentation of evidence of motivation to combine the cited references. Applicant accordingly requests that the rejection be withdrawn.

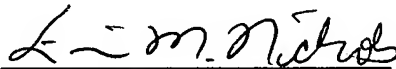
Applicant has also added new dependent Claim 21. Support for this claim may be found in the Specification, for example, at page 4, lines 1-2. Dependent Claim 21 is believed to be patentable over the asserted references for the reasons set forth above.

Authorization is given to charge Deposit Account No. 50-3581 (NKO.033.A1) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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By: 

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